

## Part III

### Administrative, Procedural, and Miscellaneous

26 CFR 601.702: Publication, public inspection, and specific requests for records.  
(Also: Part I, Section 6103(p)(2))

Rev. Proc. 2006-35

#### SECTION 1. PURPOSE

The purpose of this revenue procedure is to announce new user fees that will be charged by the Internal Revenue Service to process Form 8802, Application for United States Residency Certification. The user fee will be charged for all Form 8802 applications submitted with a postmark date on or after October 2, 2006. The rules for these user fees are set forth below and will be incorporated in the next revision of Form 8802 and accompanying instructions.

#### SECTION 2. BACKGROUND

Form 8802 is used to request Form 6166, a letter that the applicant may use as proof of the applicant's status as a resident of the United States to claim benefits under an income tax treaty or an exemption from a value added tax (VAT) imposed by a foreign country. Applicants that are fiscally transparent for U.S. federal tax purposes, such as partnerships, S corporations and grantor trusts, may request certification based on the status of their partners, shareholders, owners or beneficiaries. Custodians must submit a separate Form 8802 on behalf of each account holder.

An applicant may request Form 6166 for multiple countries and multiple tax periods on a single Form 8802 application. Form 8802 requires the applicant, among other

requirements, to specify the country or countries for which certification is requested, the number of Form(s) 6166 to be issued for each country, the tax period(s) for which certification is requested, as well as the applicant's taxpayer identification number (TIN) and, in the case of applicants that are fiscally transparent entities, the TINs of the applicant's partners, shareholders, owners or beneficiaries. See Form 8802 and instructions for additional information on the application process.

## SECTION 3. PROCEDURES

### **.01 Requests to which a user fee applies**

The user fee charge will apply to process all Form 8802 applications submitted with a postmark date on or after October 2, 2006. A user fee of \$35.00 per Form 8802 submitted will cover a request for up to 20 original Forms 6166 issued under a single TIN, regardless of the number of countries for which certification is requested or the tax period(s) to which the certification applies. An additional \$5.00 will cover a request on the same Form 8802 for up to 20 additional Forms 6166 issued under the same TIN. Additional requests for Form 6166 submitted on a separate Form 8802 will require the payment of a new \$35.00 user fee charge. Applicants are thus advised to include all Form 6166 requests on a single Form 8802 to avoid a new \$35.00 user fee charge for processing a second Form 8802 application.

For example, if you request on Form 8802:

<u>Number of Form 6166</u>	<u>User Fee</u>
1-20	\$ 35.00
21-40	\$ 40.00
41-60	\$ 45.00
61-80	\$ 50.00

Examples of applicable user fees:

- (1) Requests by custodians.** A custodian requesting certification on behalf of an account holder will be charged a user fee for each account holder based on the number of Forms 6166 requested for that person.
- (2) Requests by partnerships or other fiscally transparent entities with multiple partners, owners or beneficiaries.** A partnership, S corporation, grantor trust or other fiscally transparent entity will be charged a user fee based on the number of Forms 6166 issued under its employer identification number (EIN), notwithstanding that the Internal Revenue Service will verify the tax status of each of the partners, owners or beneficiaries of the entity who have

consented to certification in the name of the partnership, S corporation, grantor trust or other fiscally transparent entity.

## **.02 Method of payment**

Each application must be accompanied by a check or money order payable to the United States Treasury in U.S. dollars. Applicants should not send cash.

## **.03 Effect of nonpayment or payment of insufficient amount**

If Form 8802 is received and payment has not been made or the payment was made for less than the correct amount, the U.S. residency certification unit will contact the applicant or the applicant's authorized representative and give a reasonable amount of time to submit the proper user fee. The applicant's Form 8802 will not be processed until proper payment has been received.

## **.04 Refunds of user fee**

### **(1) Refunds will not be issued in the following situations:**

- (a) Form 8802 is procedurally deficient and the applicant fails to submit in a timely manner the additional information necessary to complete the application for processing as requested;
- (b) Form 8802 is withdrawn at any time subsequent to its receipt.

### **(2) Refunds may be issued in the following situation:**

Taking into account all the facts and circumstances, including the Internal Revenue Service's resources devoted to the request, the responsible Accounts Management Director in his or her sole discretion decides a refund is appropriate.

## **SECTION 4. EFFECTIVE DATE**

This revenue procedure is effective for Form 8802 applications received with a postmark date on or after October 2, 2006.

## **SECTION 5. DRAFTING INFORMATION**

The principal author of this revenue procedure is Quyen P. Huynh of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Ms. Huynh at (202) 622-3880 (not a toll free call); for information regarding processing of Form 8802 and the user fees, contact Mr. Robert Hergenhan of

Wage and Investment, Customer Account Service, Accounts Management at (215) 516-6685 (not a toll free call).